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November 30, 1982

Mathew S. Scherschel, Deputy
Attorney General
Room 219, State House
Indianapolis, IN 46204

Re: Gary Development, Inc.
Landfill Permit

US EPA RECORDS CENTER REGION 5



416022

Dear Mathew:

I have enclosed rough draft copies of our proposed Agreed Order as well as our answers to your first set of interrogatories. As I have stated, my client has not yet been able to review either document and changes may need to be made as a result of that review. However, I do feel that the answers to the interrogatories are reasonably close to the answers that will be signed by Larry Hagen and filed with the Hearing Officer. Of course, we present the proposed Agreed Order to you as a working document and wish to use this as a point departure for further discussions.

As I have stated, there is really only one main issue in contention, the resolution of which would obviate the need for a trial. This is the matter of being able to accept steel mill sludges from J&L Steel. The state gave two reasons for refusing to allow this to go to Gary Development; first, its liquidity, and second, its chemical composition. However, as we discussed

Mathew S. Scherschel, Deputy
Attorney General
Page Two
November 30, 1982

yesterday, the liquidity "problem" is overstated. First, other states allow a substantially higher ratio of liquids to solids to go into sanitary landfills and, to my knowledge, the state's ratio is nowhere set forth in regulations, but rather is pulled out of thin air. Moreover, all landfills constructed below water-table will eventually fill up with water. Therefore, it is unnecessary to keep what is going to be a wet landfill dry. Regarding the chemical composition of the sludges, both EPA and the state have reviewed exhaustive technical data regarding the chemical composition of the sludge and have both decided that this is not a RCRA hazardous waste because it does not present significant pernicious hazardous qualities. It seems very inconsistent that the state now says that the sludge is "too hazardous." Finally, as a practical matter, a good deal of this type of waste has been allowed to go into the fill in the past and therefore adding rather insignificant quantities of this waste in the future to the site will not significantly increase the potential environmental hazards.

This is the only issue standing in our way between a complete agreement. It seems unnecessary both from a practical standpoint and an environmental standpoint to conduct a full-fledged trial over this one issue. I urge you to seriously consider our proposal

Sincerely,


John M. Kyle, III

JMK/cs

Enclosure

via messenger